



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

US EPA RECORDS CENTER REGION 5



452192

REPLY TO THE ATTENTION OF:

C-14J

October 11, 2002

**Via Certified Mail**  
**Return Receipt Requested**

Bonnie Allyn Barnett  
Drinker Biddle & Reath  
One Logan Square  
18th & Cherry Streets  
Philadelphia, PA. 19103

Re: Request for Information Pursuant to Section 104(e) of CERCLA  
for Allied Paper/Portage Creek/Kalamazoo River Superfund Site in  
Kalamazoo and Allegan Counties, Michigan

Dear Ms. Barnett:

As you know, the U.S. Environmental Protection Agency ("U.S. EPA" or the "Agency") recently assumed the enforcement lead for various areas of the Allied Paper/Portage Creek/Kalamazoo River Superfund Site (the "Site"), which is located in Kalamazoo and Allegan Counties, Michigan. Accordingly, the Agency has begun to supplement the investigation of the contamination at the Site conducted to date by the Michigan Department of Environmental Quality. U.S. EPA is currently investigating the nature and extent of contamination at and from the 12<sup>th</sup> St. Landfill operable unit of the Site and the Plainwell mill property. The 12<sup>th</sup> St. Landfill is located on 12<sup>th</sup> Street in Otsego Township, Michigan. The address of the Plainwell mill is 200 Allegan Street in Plainwell, Michigan 49080. U.S. EPA believes that Millennium Holdings, Inc. ("MHI") may have information that is relevant to this investigation. The Agency understands that you represent MHI with regard to response activities at the Site.

The Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.* ("CERCLA") gives U.S. EPA the authority to: 1) assess contaminated sites, 2) determine the threats to human health and the environment posed by a site, and 3) clean up those sites.

Under § 104(e)(2) of CERCLA, U.S. EPA has authority to gather information and to require persons to furnish information or documents relating to:

A. The identification, nature, and quantity of materials which have been or are generated, treated, stored or disposed of at a vessel or facility or transported to a vessel or facility;

B. The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at/or from a vessel or facility;

C. The ability of responsible parties to pay the costs of the clean up.

U.S. EPA requests that MHI provide information and documents relating to the contamination at and from the 12<sup>th</sup> St. Landfill OU and the Plainwell mill. Please ask MHI to respond completely and truthfully to this Information Request and its questions in Attachment 1 within 10 days of your receipt of this letter. Instructions for completion of the response are in Attachment 2; definitions of terms used in this Information Request and its questions are in Attachment 3. Unless otherwise defined, all terms used in the Information Request have the same meaning ascribed to them in CERCLA or the National Oil and Hazardous Substances Pollution Contingency Plan.

You may know that certain parties associated with the Plainwell mill (the "Plainwell parties") have already provided a substantial amount of information to the Agency, the U.S. Department of Justice and to the U.S. Department of the Interior in connection with settlement negotiations between the government agencies and the Plainwell parties. U.S. EPA believes that you are aware of the types of information submitted by the Plainwell parties. If MHI has information that is responsive to any of the Requests, but that is duplicative of information submitted already by the Plainwell parties, MHI need not submit such information. The Agency does request, however, that you identify the information that you believe would be duplicative of that which is already in the possession of the federal government. If, however, MHI has additional information or documents responsive to any of the Requests, it should supplement what has already been submitted with such additional information and/or documents.

MHI may consider some of the requested information to be confidential. If MHI wishes to assert a privilege of business confidentiality, it must nevertheless respond to the question and advise U.S. EPA that it requests that the Agency treat the response as confidential business information. Directions to assert a claim of business confidentiality are in Attachment 4.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to each question within this Information Request within the prescribed time frame can result in an enforcement action by U.S. EPA pursuant to § 104(e)(5) of CERCLA. Failure to respond and failure to justify the non-response can result in similar penalties under this Section. Further, § 104(e)(5) authorizes the United States to seek penalties from a federal court of up to twenty-five thousand dollars (\$25,000) for each day of continued non-compliance. U.S. EPA considers non-compliance to be not only failure to respond to the Information Request, but also failure to respond completely and truthfully to each question in the Information Request.

The provision of false, fictitious or fraudulent statements or misrepresentations may subject MHI to criminal penalties of up to ten thousand dollars (\$10,000) or up to five (5) years imprisonment, or both, under 18 U.S.C. § 1001.

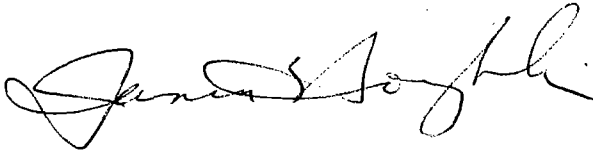
U.S. EPA has the authority to use the information requested in an administrative, civil, or criminal action.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

Return your response to U.S. EPA within 10 days of your receipt of this Information Request.  
Mail your response to:

Eileen L. Furey  
Associate Regional Counsel  
U.S. Environmental Protection Agency C-14J  
77 W. Jackson Blvd.  
Chicago, IL 60604

We appreciate your effort to respond fully and promptly to this Information Request. If you have any questions about this Information Request, please call either Eileen Furey at (312) 886-7950 or Shari Kolak, the Remedial Project Manager for the Site, at (312) 886-6151.



Janice S. Loughlin  
Section Chief  
Office of Regional Counsel  
Multi-Media Branch II  
U.S. EPA - Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

Attachment:

1. Requests
2. Instructions
3. Definitions
4. Confidential Business Information

cc: Shari Kolak, SR-6J  
Marsha Adams, SR-6J  
Doug Ballotti, S-6J  
Eileen Furey, C-14J  
Renita Ford, U.S. DOJ  
Mary-Lynn Taylor, U.S. DOI

## Attachment 1

### INFORMATION REQUESTS

1. Identify all persons consulted in the preparation of the answers to these Information Requests.
2. Identify all documents consulted, examined, or referred to in the preparation of the answers to these Requests, and provide copies of all such documents.
3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons.
4. Identify each source or potential source of the release of hazardous substances, pollutants, or contaminants (*e.g.* polychlorinated biphenyls or "PCBs") from the Plainwell mill including, without limitation:
  - a) discharges of total suspended solids ("TSS") in wastewater;
  - b) erosion from waste disposal areas located at the Plainwell mill or elsewhere (*e.g.* the 12<sup>th</sup> St. Landfill) used for the disposal of wastes generated at the Plainwell mill;
  - c) exceedances of TSS loading limits established by the State of Michigan and/or EPA;
  - d) dewatering lagoon areas located at the Plainwell mill;
  - e) storm sewer leaks and discharges;
  - f) sewer line leaks and discharges; and
  - g) machine, transformer or other equipment leaks and discharges.
5. Identify any data, analyses or other information regarding the nature and quantity of hazardous substances released from each source or potential source you identified in response to Request #4, above. To the greatest extent possible, provide any such data, estimates, analyses or other information on an annual basis from 1954 through November 6, 2000.
6. Identify all persons who you believe may have knowledge or information about the generation, transportation, treatment, disposal or other handling of waste materials, including hazardous substances, at the 12<sup>th</sup> St. Landfill OU or the Plainwell mill.
7. Identify any data, analyses or other information regarding the corporate relationship between Philip Morris Industrial Inc. and the corporate entities that owned and/or operated the Plainwell mill between December 1, 1970 and April of 1985.
8. Identify any data, analyses or other information regarding the continuing legal effect of the indemnification agreement between Philip Morris Industrial Inc. and Chesapeake

Corporation, its successor and assigns, upon confirmation of the bankruptcy plan of Plainwell Inc. and Plainwell Holding Company.

9. Identify any data, analyses or other information regarding the source(s) of carbonless copy paper used in the papermaking processes at the Plainwell mill at any time.
10. For any source identified in your response to #9, above, identify the year or years in which each source provided carbonless copy paper to the Plainwell mill for use in the papermaking process.
11. Identify any data, estimates, analyses or other information regarding the types of carbonless copy paper used in the papermaking processes at the Plainwell mill at any time.
12. For any type of carbonless copy paper identified in your response to #11, above, identify the year or years in which each type of carbonless copy paper was used in the papermaking processes at the Plainwell mill.
13. Identify any data, estimates, analyses or other information regarding the quantity of carbonless copy paper used in the papermaking processes at the Plainwell mill at any time.
14. With regard to your response to Question #13, above, identify on an annual basis between 1954 and November 6, 2000 the quantity of carbonless copy paper used in the papermaking processes at the Plainwell mill.
15. Identify any data, estimates, analyses or other information regarding the quantity of deinked pulp used in the papermaking processes at the Plainwell mill at any time.
16. With regard to your response to Question #15, above, identify on an annual basis between 1954 and November 6, 2000 the quantity of deinked pulp used in the papermaking processes at the Plainwell mill.
17. Identify any data, estimates, analyses or other information regarding the presence of PCBs in any pulp, paper or papermaking by-product (e.g. broke and trim) used in the papermaking processes at the Plainwell mill at any time.
18. Identify any data, estimates, analyses or other information regarding the concentrations of PCBs in the carbonless copy paper, deinked pulp or papermaking by-product (e.g. broke and trim) used in the papermaking process at the Plainwell mill at any time.
19. With regard to your response to Question #18, above, identify on an annual basis between 1954 and November 6, 2000 the PCB concentration in any pulp, paper or papermaking by-product (e.g. broke and trim) used in the papermaking processes at the Plainwell mill.

20. Identify any data, estimates, analyses or other information regarding the effectiveness of hand-sorting on the removal of carbonless copy paper from the deinking stock at paper mills during the period of 1954 through November 6, 2000.
21. Identify any data, estimates, analyses or other information regarding the effectiveness of the wastewater treatment system(s) at the Plainwell mill to remove PCBs from the mill's wastewater prior to its discharge into the Kalamazoo River at any time.
22. With regard to your response to Question #21, above, identify on an annual basis between 1954 and November 6, 2000 the effectiveness of the wastewater treatment system(s) at the Plainwell mill to remove PCBs from the mill's wastewater prior to its discharge to the Kalamazoo River.
23. Identify any data, estimates, analyses or other information regarding the mass quantity of paper produced at the Plainwell mill at any time. In addition, provide such data on an annual basis for each year in which the mill produced paper.
24. Identify any data, estimates, analyses or other information regarding the mass quantity of PCBs disposed into the Kalamazoo River as a result of wastewater discharges from the Plainwell papermaking processes at any time.
25. With regard to your response to Question #24, above, identify on an annual basis between 1954 and November 6, 2000 the mass quantity of PCBs disposed into the Kalamazoo River as a result of wastewater discharges from the Plainwell mill papermaking processes.
26. Identify any data, estimates, analyses or other information regarding the mass quantity of PCBs in the 12<sup>th</sup> St. Landfill.
27. With regard to your response to Question #26, above, identify on an annual basis between 1955 and November 6, 2000 the mass quantity of PCBs disposed of in the 12<sup>th</sup> St. Landfill.
28. Identify any data, estimates, analyses or other information regarding the erosion of material from the 12<sup>th</sup> St. Landfill into the adjacent powerhouse channel and/or into the Kalamazoo River.
29. With regard to your response to Question #28, above, identify on an annual basis between 1955 and November 6, 2000 the mass quantity of PCBs that eroded from the 12<sup>th</sup> St. Landfill into the adjacent powerhouse channel and/or into the Kalamazoo River.
30. Identify any data, estimates, analyses or other information regarding the damage to natural resources in the Kalamazoo River system caused by the presence of PCBs in the river system.

## Attachment 2

### INSTRUCTIONS

1. Precede each answer with the number of the question to which it corresponds. For any document submitted in response to a question, indicate the number of the question to which it responds.
2. In answering each question, identify all persons and contributing sources of information.
3. Although U.S. EPA seeks your cooperation in this investigation, CERCLA requires that you respond fully and truthfully to this Information Request. False, fictitious, or fraudulent statements or misrepresentations may subject you to civil or criminal penalties under federal law. Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes U.S. EPA to pursue penalties for failure to comply with that Section, or for failure to respond adequately to requests for submissions of required information.
4. You must supplement your response to U.S. EPA if, after submission of your response, additional information should later become known or available. Should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify U.S. EPA as soon as possible.
5. For any document submitted in response to a question, indicate the number of the question to which it is responsive.
6. You must respond to each question based upon all information and documents in your possession or control, or in the possession or control of your current or former employees, agents, contractors, or attorneys. Information must be furnished regardless of whether or not it is based on your personal knowledge, and regardless of source.
7. Your response must be accompanied by the following statement, or one that is substantially equivalent:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted.

Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing

violations.

The individual who prepared the response or the responsible corporate official acting on behalf of the corporation must sign and date the statement, affidavit, or certification. Include the corporate official's full title.

8. If any of the requested documents have been transferred to others or have otherwise been disposed of, identify each document, the person to whom it was transferred, describe the circumstances surrounding the transfer or disposition, and state the date of the transfer or disposition.
9. All requested information must be provided notwithstanding its possible characterization as confidential information or trade secrets. If desired, you may assert a business confidentiality claim by means of the procedures described in Attachment 4.



### Attachment 3

#### Definitions

1. The term "you" refers to Millennium Holdings, Inc., successor in interest to Allied Paper, Inc., which between 1955 and 1988 owned or operated certain paper manufacturing facilities located in the City of Kalamazoo, Michigan.
2. As used in this letter, words in the singular also include the plural and words in the masculine gender also include the feminine and vice versa.
3. The term *person* as used herein includes, in the plural as well as the singular, any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.
4. *The Site* referenced in these documents shall mean the Allied Paper/Portage Creek/Kalamazoo River Superfund Site located in Kalamazoo and Allegan Counties, Michigan.
5. The term *hazardous substance* shall have the same definition as that contained in Section 101(14) of CERCLA, including any mixtures of such hazardous substances with any other substances, including petroleum products.
6. The term *pollutant or contaminant* shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances.
7. The term *release* shall have the same definition as that contained in Section 101(22) of CERCLA, and means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, pollutant, or contaminant.
8. The term *identify* means, with respect to a natural person, to set forth the person's full name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
9. The term *identify* means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
10. The term *identify* means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressee and/or recipient, and the substance or the subject matter.

11. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R. Part 300 or 40 C.F.R. Part 260-280, in which case, the statutory or regulatory definitions shall apply.

## Attachment 4

### CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information that U.S. EPA is requesting to be confidential. You cannot withhold information or records upon that basis. The regulations at 40 C.F.R. Part 2, Section 200 *et seq.* require that U.S. EPA afford you the opportunity to substantiate your claim of confidentiality before the Agency makes a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering part or all of the information requested in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by U.S. EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. (*See* 41 Fed Reg. 36902 *et seq.* (September 1, 1976); 43 Fed. Reg. 4000 *et seq.* (December 18, 1985).) If no such claim accompanies the information when U.S. EPA receives it, the information may be made available to the public by the Agency without further notice to you. Please read carefully these cited regulations, together with the standards set forth in Section 104(e)(7) of CERCLA, because, as stated in Section 104(e)(7)(ii), certain categories of information are not properly the subject of a claim of confidential business information.

If you wish U.S. EPA to treat the information or record as "confidential," you must advise U.S. EPA of that fact by following the procedures described below, including the requirement for supporting your claim of confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or documents you consider confidential. Please identify the information or document that you consider confidential by page, paragraph, and sentence. You must make a separate assertion of confidentiality for each response and each document that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope "confidential," and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the Agency consider the information confidential, *e.g.*, until a specific date or until the occurrence of a specific event;
2. The measures that you have taken to guard against disclosure of the information to others;
3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;
4. Whether U.S. EPA or other federal agency has made a pertinent determination on the confidentiality of the information or document. If an agency has made such a determination, enclose a copy of that determination;

5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your competitive position. If you believe such harm would result from any disclosure, explain the nature of the harmful effects, why the harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information;

6. Whether you assert that the information is voluntarily submitted as defined by 40 C.F.R. § 2.201(I). If you make this assertion, explain how the disclosure would tend to lessen the ability of U.S. EPA to obtain similar information in the future;

7. Any other information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. § 2.208(e), the burden of substantiating confidentiality rests with you. U.S. EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that U.S. EPA may maintain their confidentiality pursuant to 40 C.F.R. § 2.205(c). If you do not identify this information and documents as "confidential," your comments will be available to the public without further notice to you.